In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-199

DOMINICK ROMANO, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury trial with others in the United States District Court for the Southern District of New York, petitioner was convicted in 1969 of having conspired to import and distribute large amounts of heroin in violation of 21 U.S.C. (1964 ed.) 174. He was sentenced to twenty years' imprisonment. The conviction was affirmed on appeal sub nom. *United States* v. *Guanti,* 421 F.2d 792 (C.A. 2), and certiorari was denied, 400 U.S. 832. Thereafter petitioner filed the present motion to vacate sentence under 28 U.S.C. 2255, accompanied by a request that the trial judge disqualify himself from determining the motion. The

475 899—72

trial judge, in an extensive opinion, declined to recuse himself and denied the motion to vacate sentence without a hearing (Pet. App. A 1–44). The court of appeals affirmed *per curiam* (Pet. App. A 47–52).

Petitioner's various contentions are insubstantial and are fully answered in the opinions below, on which we rely.

Accordingly, it is respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

SEPTEMBER 1972.

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